

REMARKS/ARGUMENTS

Reconsideration of the application is respectfully requested.

The claims of the application stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,732,726 to Lee in view of U.S. Patent No. 5,843,939 to Pui. This rejection is respectfully traversed.

The two references *Lee* and *Pui* are not relevant to the problem being solved by the present invention. Most notably, the invention is directed to a shelter having a hub in which a first upright pole does not substantially rotate relative to the hub. This feature is important for a shelter, but is not as important for either tents or sporting goals. For a shelter, as set forth in claim 21, a substantial amount of the lower leg of the shelter is exposed, risking rotation of the leg and collapsing of the shelter, as described in paragraph 25 of the present application. This problem does not appear to be present in the cited prior art.

Take for example the tent of *Lee*. This tent includes poles that extend from a central hub all the way down to the ground and that are clipped to the tent along their length. For a shelter, to which the claims are directed, a canopy extends from a top portion of the poles and there is a length of exposed pole below the canopy. Applicant has amended claim 21 to be directed to this feature by stating that the canopy extends a portion of the lower pole of the segment that is less than half the length of the lower pole segment. This feature is important, because the exposed pole segment provides a location for possible tipping over of the shelter due to twisting of the exposed pole, as described in paragraph 25 of the application. For a shelter, the exposed pole segment does not have a place to attach the canopy, unlike in the tent of *Lee*. Thus, for the hub of claim 21, the first connection of the first upper pole segment is nonrotatable so that the first upright pole does not substantially rotate relative to the hub. The only way this is provided within *Lee* is by the fact that the tent is clipped along its length to the poles. As set forth above, this is not the case in the canopy and is not possible in the canopy, because the canopy is typically attached only to the top portion of the pole structure. Thus, *Lee* is not only not a shelter, but does not address the problems to which the claims are directed.

Pui is not relevant art to a rejection of the claims. The reference is directed to a sporting goal, and not a shelter. A person of skill in the art of shelters would not turn to a portable sporting goal to solve any problems in the shelter art. Goals are obviously outside the inventor's endeavor. In addition, the goal in *Pui* is not directed to the problem to be solved by the present invention: to prevent collapse of a canopy.

Thus, because *Pui* is nonanalogous art, its use in a rejection of the claims is improper. For at least this reason, the rejections of the claims should be withdrawn.

This amendment addresses the independent claims pending in the application. Because the applicant submits that the independent claims are allowable, the dependent claims are allowable at least because they are dependent upon an allowable claim. Nevertheless, applicant submits that the dependent claims further define subject matter not shown or described in the prior art.

Conclusion

Applicant respectfully submits that the patent application is in condition for allowance. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney.

This Amendment is believed to be timely filed and no additional claim fees are due. However, in the event that any extension of time or fees are required, the Commissioner is

authorized to charge any additional fees due or credit any overpayment to Deposit Account 12-1216.

Respectfully submitted,

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CERTIFICATION OF ELECTRONIC TRANSMISSION

I hereby certify that this paper is being electronically transmitted to the U.S. Patent and Trademark Office, on the date shown below.

Date: October 23, 2007

/Roger D. Wylie/

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